

District Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE HUMAN RIGHTS DEFENSE
CENTER and MICHELLE DILLON,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, and UNITED STATES
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Defendants.

CASE NO. 18-cv-1141 TSZ

ANSWER TO FIRST AMENDED
COMPLAINT

Defendants U.S Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”),¹ by and through their undersigned counsel, hereby file this Answer to the First Amended Complaint of Plaintiffs the Human Rights Defense Center and Michelle Dillon (Dkt. 3), and in support thereof, respectfully admit, deny, or otherwise aver as follows in response to the specific allegations in the Complaint:

1. Paragraph 1 contains Plaintiffs’ characterization of the case and requested remedies to which no response is required. Insofar as an answer may be required, ICE

¹ DHS is an improper party to this FOIA litigation. DHS was not a party to the original FOIA request, nor would DHS have the information sought in either the FOIA request or this litigation. Accordingly, ICE supplies all responses to the Amended Complaint and DHS denies knowledge sufficient to form a belief as to the truth of any factual allegations.

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2 admits that Plaintiffs bring this action pursuant to the Freedom of Information Act
3 (“FOIA”).

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5 **JURISDICTION AND VENUE**

6 2. This Paragraph contains conclusions of law, to which no response is
7 required. To the extent that a response is deemed necessary, ICE admits only that this
8 Court has jurisdiction subject to the limitations of FOIA. ICE further avers that the
9 statutes cited speak for themselves.

11 3. This Paragraph contains conclusions of law, to which no response is
12 required. To the extent that a response is deemed necessary, ICE admits only that venue
13 is proper in the judicial district. ICE further avers that the statute cited speaks for itself.

15 **PARTIES**

16 4. ICE is without knowledge or information sufficient to form a belief as to
17 the truth or falsity of the allegations contained in Paragraph 4. To the extent that a
18 response is deemed necessary, deny.

19 5. ICE is without knowledge or information sufficient to form a belief as to
20 the truth or falsity of the allegations contained in Paragraph 5. To the extent that a
21 response is deemed necessary, deny.

22 6. DHS is a department of the executive branch. The statute cited speaks for
23 itself.

24 7. ICE is a component of DHS. The statutes cited speak for themselves.
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FACTS

Human Rights Defense Center's Background and Mission

8. ICE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 8. To the extent that a response is deemed necessary, deny.

9. ICE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 9. To the extent that a response is deemed necessary, deny.

10. ICE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 10. To the extent that a response is deemed necessary, deny.

11. ICE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 11. To the extent that a response is deemed necessary, deny.

Immigration and Customs Enforcement

12. The allegations contained in this Paragraph do not set forth a claim for belief or aver facts in support of a claim to which a response is required. To the extent that a response is deemed necessary, admit that ICE's mission is to protect America from the cross-border crime and illegal immigration that threaten national security and public safety, through the enforcement of more than 400 federal statutes.

The Request for Information at Issue

13. ICE admits that it received a FOIA request from Plaintiffs dated March 20, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents.

14. ICE admits that it received a FOIA request from Plaintiffs dated March 20, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents.

15. ICE admits that it received a FOIA request from Plaintiffs dated March 20, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents.

16. ICE admits that it received a FOIA request and a fee waiver request from Plaintiffs dated March 20, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents.

17. ICE admits that it received a FOIA request from Plaintiffs dated March 20, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents. ICE further avers that the spreadsheet cited speaks for itself.

18. ICE admits that it received a FOIA request from Plaintiffs dated March 20, 2018, and respectfully refers the Court to the FOIA request for a complete and accurate statement of its contents. ICE further avers that the spreadsheet cited speaks for itself.

19. ICE admits that it acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking number 2018-ICFO-26920 via an e-mail dated April 2, 2018. The

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2 email also granted Plaintiffs' fee waiver request. ICE respectfully refers the Court to the
3 e-mail for a complete and accurate statement of its contents.

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5 20. ICE admits that it acknowledged receipt of Plaintiffs' FOIA request and
6 assigned it tracking number 2018-ICFO-26920 via an e-mail dated April 2, 2018. ICE
7 respectfully refers the Court to the e-mail for a complete and accurate statement of its
8 contents.

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10 21. ICE admits that it sent a letter to Plaintiffs regarding information on
11 PACER, dated April 25, 2018 (not April 18, 2018). ICE respectfully refers the Court to
12 the letter for a complete and accurate statement of its contents.

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14 22. ICE admits that it sent an email to Plaintiffs on April 25, 2018 requesting
15 clarification about the FOIA request, specifically narrowing the time frame and/or scope
16 of the documents. ICE respectfully refers the Court to the email for a complete and
17 accurate statement of its contents.

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19 23. ICE admits that it received an email from Plaintiffs on April 26, 2018 that
20 declined to narrow the FOIA request, and respectfully refers the Court to the email
21 request for a complete and accurate statement of its contents.

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23 24. ICE admits that it sent a letter to Plaintiffs on June 20, 2018 denying to
24 process the FOIA request. ICE respectfully refers the Court to the letter for a complete
25 and accurate statement of its contents.

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27 25. ICE admits that a FOIA appeal from Plaintiffs, dated June 26, 2018, was
28 received by ICE on July 5, 2018, and respectfully refers the Court to the FOIA appeal for
a complete and accurate statement of its contents.

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2 26. ICE admits that it acknowledged receipt of Plaintiffs' FOIA appeal and
3 assigned it tracking number 2018-ICAP-00366 via an e-mail dated July 6, 2018. ICE
4 respectfully refers the Court to the e-mail for a complete and accurate statement of its
5 contents.
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7 27. The allegations contained in this Paragraph do not set forth a claim for
8 relief or aver facts in support of a claim to which a response is required. To the extent
9 that a response is deemed necessary, ICE avers that the statute cited speaks for itself.
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11 28. ICE admits that it sent a final adjudication letter for Plaintiffs' FOIA appeal
12 via an e-mail dated August 6, 2018. ICE respectfully refers the Court to the e-mail for a
13 complete and accurate statement of its contents.
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15 29. ICE admits that it sent a final adjudication letter for Plaintiffs' FOIA appeal
16 via an e-mail dated August 6, 2018. ICE respectfully refers the Court to the e-mail for a
17 complete and accurate statement of its contents.
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19 **THE HUMAN RIGHTS DEFENSE CENTER AND MS. DILLON'S CLAIM**
20 **FOR RELIEF**

21 30. ICE incorporates by reference its responses to Paragraphs 1 through 29
22 above.
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24 31. This paragraph contains conclusions of law, to which no response is
25 required. To the extent that a response is deemed necessary, deny.
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27 32. This paragraph contains conclusions of law, to which no response is
28 required. To the extent that a response is deemed necessary, deny.

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2 33. This paragraph contains conclusions of law, to which no response is
3 required. To the extent that a response is deemed necessary, deny.
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5 **REQUESTED RELIEF**

6 The remaining paragraphs of the Complaint sets forth Plaintiffs' request for relief,
7 to which no response is required. To the extent that this paragraph may be deemed to
8 contain factual allegations to which a response may be required, they are denied.
9 Defendants deny all allegations not specifically admitted herein.
10

11 **GENERAL DENIAL**

12 Pursuant to Rule 8(b)(3), Defendants deny all allegations in the Complaint which
13 it has not otherwise specifically admitted or denied herein.
14

15 **DEFENSES**

16 **FIRST DEFENSE**

17 As to some or all of the claims asserted in this action, Plaintiffs have failed to state
18 a claim upon which relief may be granted under FOIA.
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20 **SECOND DEFENSE**

21 Plaintiffs are not entitled to compel the production of responsive records protected
22 from disclosure by one or more of the exemptions or exclusions to FOIA, 5 U.S.C. § 552,
23 or the Privacy Act, 5 U.S.C. § 552a.
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25 **THIRD DEFENSE**

26 The Court lacks jurisdiction over the subject matter of this Complaint for any relief
27 that exceeds the relief authorized by statute under 5 U.S.C. § 552.
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3 FOURTH DEFENSE

4 Any relief is limited to that provided for in 5 U.S.C. § 552(a)(4)(B).
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6 FIFTH DEFENSE

7 DHS is an improperly named defendant.
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9 SIXTH DEFENSE

10 Plaintiffs are not entitled to attorneys' fees or costs.

11 SEVENTH DEFENSE

12 To the extent the Complaint refers to or quotes from external documents, statutes,
13 or other sources, Defendants may refer to such materials for their accurate and complete
14 contents in response; however, Defendants' references are not intended to be, and should
15 not be construed to be, an admission that the cited materials: (a) are correctly cited or
16 quoted by Plaintiff; (b) are relevant to this, or any other, action; or (c) are admissible in
17 this, or any other, action.
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20 EIGHTH DEFENSE

21 Defendants reserve their right to amend this Answer to assert any other matter that
22 constitutes an avoidance or affirmative defense under Federal Rule of Civil Procedure 8(c).
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2 WHEREFORE, Defendants respectfully request that the Court dismiss all claims
3 in the Complaint and grant it such other relief as may be just and appropriate.

4 DATED this 6th day of September, 2018.

5 Respectfully submitted,

6 ANNETTE L. HAYES
7 United States Attorney
8

9 s/ Michelle R. Lambert
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she is an employee in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers.

It is further certified that, on this date, he/she electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Eric M. Stahl
ericstahl@dwt.com

I further certify that on this date, I mailed by United States Postal Service the foregoing to the following non-CM/ECF participant(s)/CM/ECF participant(s), addressed as follows:

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Dated this 6th day of September, 2018.

/s/ Rebecca L. Clauson
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